

### Subpart C—Temporary Exemptions for New Facilities

#### § 503.20 Purpose and scope.

(a) This subpart implements the provisions contained in section 211 of the Act with regard to temporary exemptions for new facilities.

(b) This subpart establishes the criteria and standards which owners or operators of new powerplants who petition for a temporary exemption must meet to sustain their burden of proof under the Act.

(c) All petitions for temporary exemptions shall be submitted in accordance with the procedures set out in part 501 of this chapter and the applicable requirements of part 503 of these regulations.

(d) The duration of any temporary exemption granted under this subpart shall be measured from the date that the facility is placed in service using petroleum or natural gas.

[46 FR 59903, Dec. 7, 1981, as amended at 54 FR 52894, Dec. 22, 1989]

#### § 503.21 Lack of alternate fuel supply.

(a) *Eligibility.* Section 211(a)(1) of the Act provides for a temporary exemption due to the unavailability of an adequate and reliable supply of an alternate fuel at a cost which does not substantially exceed the cost of using imported petroleum. To qualify, a petitioner must certify that:

(1) A good faith effort has been to obtain an adequate and reliable supply of an alternate fuel of the quality necessary to conform to the design and operational requirements of the unit;

(2) For the period of the proposed exemption, the cost of using such alternate fuel would substantially exceed the cost of using imported petroleum as a primary energy source as defined in § 503.6 (Cost calculation) of these regulations;

(3) The petitioner will be able to comply with the applicable prohibitions of the Act at the end of the proposed exemption period; and

(4) No alternate power supply exists, as required under § 503.8 of these regulations.

(b) *Evidence required in support of a petition.* The petition must include the

following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for the certifications required under paragraph (a) of this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support the granting of this exemption);

(3) All data required by § 503.6 (cost calculation) of these regulations necessary for computing the cost calculation formula; and

(4) The anticipated duration of the lack of alternate fuel supply which constitutes the basis for the exemption.

(c) *Duration.* This temporary exemption, taking into account any extensions or renewals, may not exceed 10 years.

[46 FR 59903, Dec. 7, 1981, as amended at 47 FR 15315, Apr. 9, 1982; 54 FR 52894, Dec. 22, 1989]

#### § 503.22 Site limitations.

(a) *Eligibility.* Section 211(a)(2) of the Act provides for a temporary exemption due to a site limitation. To qualify for such an exemption, a petitioner must certify that:

(1) One or more specific physical limitations relevant to the location or operation of the proposed facility exist which, despite diligent good faith efforts, cannot be overcome before the end of the proposed exemption period;

(2) The petitioner will be able to comply with the applicable prohibitions of the Act at the end of the proposed exemption period; and

(3) No alternate power supply exists, as required under § 503.8 of these regulations.

NOTE: Examples of the types of site limitations to which a petitioner may certify in order to qualify for this exemption include:

(i) Inaccessability of alternate fuels as a result of a specific physical limitation;

(ii) Unavailability of transportation facilities for alternate fuels;